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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 United States of America, ex rel. the State) CR 11-8134-PCT-JAT
10 of Arizona,)

11 Plaintiff,)

12 vs.)

13 Daniel Patrick Rawlins,)

14 Defendant.)
15

ORDER

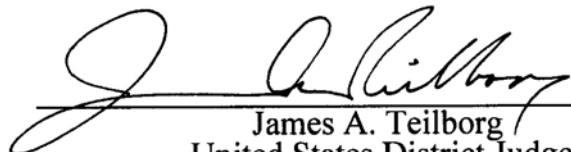
16 Defendant in this case has removed his criminal prosecution from state court to
17 Federal Court. In certain circumstances, criminal prosecutions can be removed to Federal
18 court. *See Wright, Miller, Cooper & Steinman, 14C Federal Practice and Procedure* § 3727
19 (4th ed. 2009). For example, when civil rights statutes are implicated, a defendant may
20 remove a case. *Id.* (citing 28 U.S.C. § 1443). However, to be eligible for removal based on
21 civil rights, the statute at issue must be couched in “specific language of racial equality” and
22 not, “statutes or constitutional provisions phrased in terms of general rights applicable to all
23 citizens.” *Id.* (citing *Georgia v. Rachel*, 384 U.S. 780 (1966)). Further, the removing
24 defendant must also, “specifically allege the he has been denied or cannot enforce in state
25 court the right that was created by the civil rights law under which he or she seeks
26 protection.” *Id.* In addition to these substantive requirements, procedurally, removal in a
27 criminal case must be brought within 30 days after arraignment in state court, unless the
28 party seeking removal shows good cause. 28 U.S.C. § 1446(c)(1).

1 In this case, Defendant Rawlins states that his criminal case number is CR 2008-0928,
2 meaning the case was filed in 2008. Doc. 1 at 4. Defendant does not state when he was
3 arraigned, but does state the trial began on May 8, 2009, and that he was found, “guilty as
4 charged” following trial. *Id.* at 8-9. This case was removed on June 14, 2011. Based on
5 these facts, it is impossible that this case was removed within 30 days of arraignment, and
6 this Court could remand this case for this reason. However, the Court notes that at footnote
7 6 of his petition for removal, Defendant argues that he was never arraigned. *Id.* at 4, n. 6.
8 So, presumably, Defendant would also argue that his 30 days to remove never began to run.¹

9 But, even if Defendant could overcome this procedural defect in removal,
10 substantively, Defendant fails to show that removal is appropriate. Specifically, Defendant
11 alleges only that he was wrongfully charged, wrongfully convicted and that he wants his
12 constitutional right to fair trial. *Id.* at 13. These allegations are framed only in terms of
13 general rights of all citizens, not specific language of racial equity. Accordingly,
14 substantively, Defendant has failed to show that this criminal action is removable to Federal
15 court. Thus, based on the foregoing,

16 **IT IS ORDERED** remanding this case to Snowflake Justice Court, Navajo County,
17 State of Arizona (case CR 2008-0928).

18 DATED this 29th day of June, 2011.

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22 James A. Teilborg
23 United States District Judge
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27 ¹ Because Defendant did not provide this Court with a copy of the state court record,
28 the Court cannot determine when and/or if an arraignment occurred.